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DECLARATION OF COLONEL JOHN V. BOGDAN

(U) I, Colonel John V. Bogdan, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. (U) I am a Colonel in the United States Army, with 29 years of service. I currently serve as the Joint Detention Group (JDG) Commander of Joint Task Force-Guantanamo (JTF-GTMO), at the Naval Station, Guantanamo Bay, Cuba. As such, I am responsible for all aspects of detention operations at JTF-GTMO and am familiar with all areas of detention within JTF-GTMO, including the conditions and operational policies and procedures of the various detention areas. I have held this position since June 7, 2012.

2. (U) This declaration is based on my own personal knowledge and information made available to me in the course of my official duties.

3. (U) JTF-GTMO procedures are established to ensure the safety of personnel and the detainees. JTF-GTMO takes very seriously the matter of counsel visits with detainees. These meetings occur on a near daily basis, and occur in the context of both habeas and Military Commissions cases. Since I assumed Command in June 2012, JTF-GTMO has facilitated over 800 commissions and habeas counsel visits with their detainee clients. It is JTF-GTMO policy to allow counsel access to their clients consistent with our established standard operating procedures and the terms of the various protective orders issued by appropriate authorities. During their stays at JTF-GTMO, counsel are provided with appropriate facilities to meet with their clients.

4. (U) Detainees are not granted or denied privileges, disciplined, or otherwise discriminated against on the basis of involvement in habeas litigation or for meeting with counsel. JTF-GTMO personnel do not discourage detainees from attending visits with their counsel. JTF-GTMO does not permit personnel to interfere with the relationship between a detainee and his counsel.

(U) CAMP ECHO

5. (U//FOUO) Camp Echo is specifically set up and designated to facilitate meetings with detainees, including legal visits, in a secure and safe environment. The meeting rooms at Camp Echo are specifically designed for attorney meetings and can accommodate up to five people, including the detainee. For example, Camp Echo meeting rooms have restroom facilities for the detainee, which are not available in the rooms at Camp 6. If the detainee would need to use the restroom in Camp 6, the meeting must end and the detainee would need to be moved by guard staff back to his cell. Furthermore, Camp Echo meeting rooms were designed to allow detainees to pause their meeting and pray during scheduled prayer times without the need to move the detainee. Once they complete their prayers, they may resume their meeting with their counsel. In contrast, Camp 6 rooms cannot support prayers and, if the detainee wishes to pray, the meeting must be terminated and the detainee escorted back to their cell. In Camp Echo, there are six meeting rooms available for habeas and commission attorney use, which allows several attorney teams to meet with their clients at the same time. Camp Echo can accommodate 6 morning sessions and 6 afternoon sessions, for a total of 12 legal visits. It is worth noting an entirely different facility is used strictly for legal meetings for those detainees classified as High

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Value Detainees. Legal visits in Camp Echo increase security by minimizing the amount of unnecessary personnel in Camp 6, where the majority of detainees are being held. International Committee of the Red Cross meetings with detainees, detainee phone calls to family, and legal counsel-detainee meetings have historically been primarily held at Camp Echo.

6. (U//FOUO) Camp Echo contains a reception area to facilitate the screening of visitors for prohibited contraband before they meet with detainees. No matter where a meeting is held, all visitor screening must take place at Camp Echo because the other facilities do not have the necessary space. After screening, counsel meeting with a client in Camp Echo are escorted to the meeting room by a guard who is then able to return to his or her post and monitor the camp. Guards do not have to be posted outside the meeting rooms in Camp Echo since observation for security purposes can be accomplished from the guard shack utilizing purely visual monitors. Attorneys using the room can press a button for immediate access to guard staff. Moreover, the Privilege Team can, if resources allow, conduct a courtesy review in Camp Echo of material defense counsel may bring to the island that was not originally screened by the Privilege Team office in Washington, D.C. Camp Echo would allow the privilege team and defense counsel to discuss material in private should there be disagreement as to the nature of the material. Such a conversation could not occur in Camp 6 as there are no private spaces available other than the interview room. Attorneys can bring in food for the clients, watch commercial DVDs, and read books in Camp Echo without additional heightened scrutiny over and above the standard searches for Camp Echo. This is not the case for any meetings at Camp 6 since introduction of these items significantly increases the risk of for introduction of contraband not normally permitted in the detention camps.

7. (U) Furthermore, JTF-GTMO maintains an escort staff of guards whose exclusive mission is to support movements of detainees and visitors, including habeas counsel. This escort staff moves detainees to all external visits that occur outside of the detainee's resident camp, including medical appointments, phone calls, and attorney meetings with detainees conducted in Camp Echo. The use of the escort staff for attorney meetings at Camp Echo alleviates the need to use camp guard staff for escorting and standing watch during attorney meetings, as was necessary for meetings held in Camp 6 for the reasons explained below. This escort staff cannot be reallocated to support Camp 6 attorney visits because of the significant need for escorts during other types of detainee movements, including other attorney visits that would continue to take place at Camp Echo.

(U) CAMP DELTA

8. (U) All attorney phone calls with detainees are conducted in Camp Delta at a location that is specifically designed and equipped for telecom operations. Although other detainee phone calls, such as ICRC and family calls, are made from Camp Echo, Camp Echo is too busy with legal meetings and non-legal phone calls to support legal calls as well. Furthermore, there is no capability to facilitate attorney calls in Camps 5 or 6, and to my knowledge, calls have not been conducted in those locations in the past. Special security measures have been established at Camp Echo, and equipment and guard staff are dedicated to Camp Echo, to facilitate detainee meetings.

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(U) CAMP 5

9. (U) Since I assumed Command, I am not aware of any Habeas visits having occurred in Camp 5, and furthermore, a spreadsheet maintained by my staff indicates that no legal visits or phone calls have taken place in Camp 5 since 2009. Special logistical and safety concerns, as explained below, make counsel meetings within Camp 5 unworkable, and there is no telecom capability in the camp for attorney/client phone calls.

10. (U) Camp 5 is comparable to and modeled after a maximum security, single cell detention facility in the United States. Each passageway, referred to as a block, contains between 12 and 14 cells. The cells have solid walls, but detainees can and do talk with other detainees in adjacent cells and with detainees housed on the block, as well as with guards, medical staff, library, and mail delivery personnel. Detainees are permitted to participate in uninterrupted group prayer (led by a block detainee imam of their choosing) five times per day.

11. (U//FOUO) Due to force protection and security measures, and the impact upon the guard force, it is not feasible to allow attorney meetings to occur in Camp 5. There are no rooms designed for attorney-detainee meetings in Camp 5. To accommodate attorney-detainee meetings in Camp 5 would require that JTF-GTMO permit meetings on the block itself or identify a utility or storage room not currently in use. Both scenarios would create an extremely dangerous situation for the guard staff, defense counsel, and detainee. JTF-GTMO procedures are established to ensure the safety of personnel and the detainees, and personnel on the blocks are constantly at risk of assault by the detainees. Most notably, this occurs in the form of being attacked by detainees, and assaults/splashes with bodily fluids, to include feces and urine. Allowing non-JTF-GTMO, non-USG personnel on a block can and does incite mass block disturbances. Detainees recognize when someone "new" is on the block. In the past, this has led to mass block disturbances that have included multiple detainees, in concert, assaulting or attempting to assault the guard staff directly or with bodily fluids, shouting, banging on the cell doors and windows, covering their cell windows (with blankets, sheets, mattresses, paper, soap, and/or feces) in order to obstruct the guards' view, and intentionally flooding their sinks and/or toilets. Allowing counsel or their interpreter to meet with a detainee on the cell block, or any area other than that specifically designated for that purpose, would seriously compromise the safety of all concerned, including the detainees, and disrupt the good order of the facility. The policies prohibiting non-JTF GTMO personnel on the block have been established to promote appropriate contact and communication with the detainees. Deviating from these policies would jeopardize the order of the facility and the performance of daily operations there.

12. (U) Due to these safety considerations, if counsel visits were permitted in Camp 5 some detainee movements would have to be stopped for the duration of each counsel meeting. This would result in the potential disruption of the movement of all other detainees for recreation, phone calls, and other appointments, and the potential disruption of daily prayers, meals, medical rounds, and mail delivery.

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(U) CAMP 6

13. (U) When I assumed command of the Joint Detention Group in June 2012, I reviewed the policies and procedures in place for the operation of each detention camp and, based on my personal knowledge and experience, and in exercise of my authority as JDG commander, I determined that meetings between detainees and non-JTF-GTMO staff should not occur in Camp 6. This decision was based on a desire to ensure the safety and security of the JTF-GTMO command personnel and detainees.

14. (U//FOUO) Camp 6 is a two story maximum security detention facility and is not staffed for counsel visits. Prior to September 2012, two small interview rooms, which were not designed to serve as attorney meeting spaces, were used to facilitate occasional legal visits upon request of counsel. These rooms are much smaller than the legal meeting rooms in Camp Echo, and only 3 people may fit safely in each room, versus 5 people in the Camp Echo rooms. Moreover, due to the distance of these rooms from normal operations, additional guard staff is required to monitor the safety of the counsel from outside of the room for the duration of the meeting, unlike Camp Echo, to ensure appropriate response time. Using the guard staff for duties associated with counsel visits takes them away from the daily operations and activities occurring on each block for which they are needed. The escort guard staff used for external movements could not be used to support attorney visits in Camp 6 because escort staff are assigned numerous moves on a near continuous basis throughout the day, to include movements to medical, inter-camp moves, ICRC visits, and other attorney visits. As it currently stands, JTF-GTMO cannot support all daily movements with current staff levels, so movements must be prioritized. Diverting escort staff for guard duty in support of attorney visits at Camp 6 would further reduce the number of daily moves that can be performed, thus adversely affecting other detainees and camp operations.

15. (U) The location of the interview rooms are located in an operational portion of the Camp. Therefore, normal Camp operations can interfere with attorney-client meetings and guard staff cannot guarantee that attorney-client meetings at Camp 6 will not be interfered with. For example, attorneys may be required to remain in the room during detainee movements, or security incidents may necessitate that meetings be terminated emergently for the safety of the counsel and the detainee. This is in contrast to Camp Echo, where the meeting rooms are specifically sequestered from the other camps for the purpose of external meetings and the potential for interruption or risk to the attorneys is significantly reduced.

16. (U) I determined that the visits presented both a security risk and interfered with the ability of the guards to perform their jobs in a secure manner. Additionally, for security reasons, internal moves could not be conducted in proximity to the attorney visits. Having legal visits moved solely to Camp Echo greatly reduced the security risk posed and any unnecessary interruptions in running the detention facility.

(U) SEARCHES

17. (U//FOUO) Historically, searching of the groin area was not permitted unless authorized by the JDG Commander in an effort to gain detainee compliance by showing a respect to what the JTF believed were detainee cultural sensitivities, and wand searches were only done if the guard

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force suspected hidden contraband. While the JTF and I always consider detainee cultural and religious sensitivities to the greatest extent practicable in all of our operations, these sensitivities must be balanced against detainee and guard staff security as is the case in all detention facilities. The former process was contrary to standard procedure found in Army STP 19-31E1-SM, which is the Army standard for conducting frisk searches of detainees or U.S. military prisoners. Since Army Soldiers are not trained on these "modified" search procedures, these searches can be conducted inconsistently between guard members, creating a risk that the searches will not be effective and weapons or contraband will be overlooked. Therefore, as a result of my concerns for safety within the facility, I decided to return to the standard Army search procedure.

18. (U//FOUO). The decision to return to standard search procedures was further informed by a command investigation conducted following the suicide of Adnan Farhan Abd Latif (ISN 156) in September 2012. The investigation results were released in November 2012 and specifically recommended that I, as the JDG Commander, review the policy which prohibited guards from conducting searches of the area from the waist to above the knee of the detainees, which is in contravention of standard search procedures as noted above, as it provided opportunities for detainees to hide medications in that area. Recognizing that an abrupt return to standard search procedures could disrupt camp dynamics, I developed a phased approach in December 2012 to gradually return to the standard search procedures so that both the guard staff and the detainees could adapt to full-body wanding and the groin area search procedures described below. I worked with camp leadership to develop an implementation plan, but did not set hard deadlines as I wanted to remain flexible in implementation so that I could react to changes in the camps. However, the April 2013 transition of Camp 6 from communal living to single cell operations demonstrated that the need for change was immediate. That transition resulted in the discovery of a number of contraband items, including homemade weapons, such as shanks, and prohibited electronic devices. Based on this discovery, I determined that safety and security interests required the implementation of the standard search procedures. On May 3, 2013, we reinstated standard Army search procedures. As noted above, these search protocols are the same that are currently used at military detention facilities and prisons, and provide additional security measures for the guard force using proven standard procedures to which they were trained.

19. (U//FOUO) Pursuant to the current Standard Operating Procedure, detainees are searched twice during external moves or when the detainee has any external contact using the standard procedures found in STP 19-31E1-SM. Detainees are searched once prior to leaving the facility, and again prior to their return. This procedure is conducted for all moves, not just attorney visits, including phone calls, medical appointments, or any other reason they would have to leave the camp. The search includes a full body frisk conducted in accordance with STP 19-31E1-SM, including, as described below, the groin area between the detainee's waist and mid-thigh, and a full body wand search to ensure the detainees do not possess contraband.

20. (U//FOUO) The frisk search that is conducted is to ensure there is nothing concealed between the clothing and the body. The guard will gather and crush the fabric of the detainee's pant pockets to check for any objects in the pockets. The guard will touch the fabric on the outside of the detainee's waistband, shake it vigorously to dislodge potential contraband, but will not touch the inside of it. If a guard suspects that the detainee has contraband in his waistband, the guard will instruct the detainee to roll down his waistband so the guard can conduct a visual inspection.

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Specifically with regard to groin area frisks, at no time is the detainee's actual groin exposed to the staff. The search is conducted by placing the guard's hand as wedge between the scrotum and thigh, and using the flat hand to press against the groin to detect anything foreign attached to the body. A flat hand is used to ensure no contraband is hidden between the buttocks. Army standards require that a guard staff pay "close attention to anything that may be attached to the body, especially the groin area." (STP 19-31E1-SM paragraph (4)(f)(4)(c)).

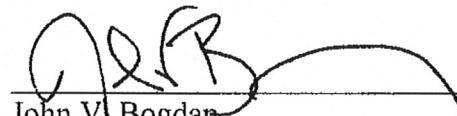
21. (U//FOUO) The wand search is conducted using a hand-held "wand" metal detector which is passed over the body, to include the groin and buttocks area. Guards are to be careful not to touch the detainee's body with the wand. The wand is held one to two inches from the detainee's body.

(U) DETAINEE TRANSPORTATION FOR LEGAL CALLS AND MEETINGS

22. (U//FOUO) Detainees are transported from Camp 5 or Camp 6 to Camps Delta and Echo for legal calls and meetings in full-sized Ford Econoline 350 Cargo vans. The vans are modified for corrections use, including windowless panels in the rear areas where detainees are seated and a more robust air conditioning system. During the brief movement to the camps, detainees are restrained in a manner consistent with standard procedures for military corrections using a 5-point fabric seatbelt harness. Detainees are not restrained to any restraint points on the floor of the van as there are no restraint points on the floor. On April 1, 2013, JTF-GTMO introduced a number of new vans after completing a routine fleet upgrade and to address complaints from detainees about a lack of air conditioning in the older vans. The new models have larger air ducts, but as a result, have lower ceilings. Unfortunately, the vendor used incorrect specifications and placed benches that are slightly too tall in light of the lower ceiling of the new model. As soon as this error was discovered, JTF-GTMO ordered the correct benches. These benches recently arrived at Guantanamo Bay and JTF-GTMO is in the process of awarding a contract to have the new lower benches installed. Once installed, the new vans will have the same or similar height as the old vans, resolving any issues with taller detainees and guard staff. Some of the older vans are still in use, and if a detainee has a documented medical condition that necessitates it, he is transported in an older van that has higher ceilings. This will continue until the newer vans are retrofitted with the lower benches.

I declare under penalty of perjury that the forgoing is true and correct.

Executed on 3 Jun 13.



John V. Bogdan
Colonel, U.S. Army
Commander, Joint Detention Group, JTF-GTMO

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